

ASSEMBLY BILL

No. 946

Introduced by Assembly Member Salas

February 26, 2009

An act to amend Section 201.3 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 946, as introduced, Salas. Employment: temporary service employee wages.

Existing law requires that an employee of a temporary services employer, as defined, be paid weekly. Existing law requires that an employee of a temporary services employer be paid at the end of the workday if the employee is assigned to a client of the temporary service employer, as defined, on a day-to-day basis or if the employee is assigned to a client engaged in a trade dispute. Existing law provides that these pay requirements do not apply to an employee of a temporary service employer who is assigned to a client for over 90 consecutive calendar days unless the temporary service employer pays the employee weekly.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 201.3 of the Labor Code is amended to
2 read:

1 201.3. (a) For purposes of this section, the following
2 definitions apply:

3 (1) “Temporary services employer” means an employing unit
4 that contracts with clients or customers to supply workers to
5 perform services for the clients or customers and that performs all
6 of the following functions:

7 (A) Negotiates with clients and customers for matters such as
8 the time and place where the services are to be provided, the type
9 of work, the working conditions, and the quality and price of the
10 services.

11 (B) Determines assignments or reassignments of workers, even
12 if workers retain the right to refuse specific assignments.

13 (C) Retains the authority to assign or reassign a worker to
14 another client or customer when the worker is determined *to be*
15 unacceptable by a specific client or customer.

16 (D) Assigns or reassigns workers to perform services for clients
17 or customers.

18 (E) Sets the rate of pay of workers, whether or not through
19 negotiation.

20 (F) Pays workers from its own account or accounts.

21 (G) Retains the right to hire and terminate workers.

22 (2) “Temporary services employer” does not include any of the
23 following:

24 (A) A bona fide nonprofit organization that provides temporary
25 service employees to clients.

26 (B) A farm labor contractor, as defined in subdivision (b) of
27 Section 1682.

28 (C) A garment manufacturing employer, which, for purposes
29 of this section, has the same meaning as “contractor,” as defined
30 in subdivision (d) of Section 2671.

31 (3) “Employing unit” has the same meaning as defined in
32 Section 135 of the Unemployment Insurance Code.

33 (4) “Client” and “customer” ~~means~~ *mean* the person with whom
34 a temporary services employer has a contractual relationship to
35 provide the services of one or more individuals employed by the
36 temporary services employer.

37 (b) (1) Except as provided in paragraphs (2) to (5), inclusive,
38 if an employee of a temporary services employer is assigned to
39 work for a client, ~~that~~ *the* employee’s wages are due and payable
40 ~~no~~ *not* less frequently than weekly, regardless of when the

1 assignment ends, and wages for work performed during any
2 calendar week shall be due and payable not later than the regular
3 payday of the following calendar week. A temporary services
4 employer shall be deemed to have timely paid wages upon
5 completion of an assignment if wages are paid in compliance with
6 this subdivision.

7 (2) If an employee of a temporary services employer is assigned
8 to work for a client on a day-to-day basis, ~~that~~ *the* employee's
9 wages are due and payable at the end of each day, regardless of
10 when the assignment ends, if each of the following occurs:

11 (A) The employee reports to or assembles at the office of the
12 temporary services employer or ~~other~~ *at another* location.

13 (B) The employee is dispatched to a client's worksite each day
14 and returns to or reports to the office of the temporary services
15 employer or ~~other~~ *another* location upon completion of the
16 assignment.

17 (C) The employee's work is not executive, administrative, or
18 professional, as defined in the wage orders of the Industrial Welfare
19 Commission, and is not clerical.

20 (3) If an employee of a temporary services employer is assigned
21 to work for a client engaged in a trade dispute, ~~that~~ *the* employee's
22 wages are due and payable at the end of each day, regardless of
23 when the assignment ends.

24 (4) If an employee of a temporary services employer is assigned
25 to work for a client and is discharged by the temporary services
26 employer or leasing employer, *the employee's* wages are due and
27 payable as provided in Section 201.

28 (5) If an employee of a temporary services employer is assigned
29 to work for a client and quits his or her employment with the
30 temporary services employer, *the employee's* wages are due and
31 payable as provided in Section 202.

32 (6) If an employee of a temporary services employer is assigned
33 to work for a client for over 90 consecutive calendar days, this
34 section shall not apply unless the temporary services employer
35 pays the employee weekly in compliance with paragraph (1) of
36 subdivision (b).

37 (c) A temporary services employer who violates this section
38 shall be subject to the civil penalties provided for in Section 203,
39 and to any other penalties available at law.

- 1 (d) Nothing in this section shall be interpreted to limit any rights
- 2 or remedies otherwise available under state or federal law.

O